IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21/01/2003

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THE HON'BLE MR. JUSTICE V.KANAGARAJ

CRL.O.P.NO.392 OF 2003
AND CRL.OP.NOS. 410 and 414 OF 2003

1.K.L.Krishnamurthy .. Petitioner in all the above O.Ps.

2.K.L.Subramanian .. Petitioner in all the above O.Ps.

3.K.K.Ramesh Babu .. Petitioner in Crl.O.P.No. 414/03

-Vs-

State rep. by
The Inspector of Police
E.O.W. II
Sivagangai. .. Respondent in Crl.O.P.No.392/03

State rep. by
The Inspector of Police
E.O.W. II
Dindigul. .. Respondent in Crl.O.P.No.410/03

State rep. by
The Inspector of Police
E.O.W. II
Madurai. .. Respondent in Crl.O.P.NO.414/03

Petitions filed under section 482 Cr.P.C. praying for as stated below.

For petitioners : Mr. D.Murthy

For respondents : Mr. O.Srinath, G.A.

:O R D E R

For easy reference and for the sake of convenience Criminal Original Petition Nos. 392, 410 and 414 of 2003 are herein after referred to as the first, second and the third Criminal Original Petition respectively. From out of all the above three Criminal Original Petitions, the first and second Criminal Original petition above have been filed by the brothers, namely, K.L.Krishnamurthy and K.L.Subramanian and the third Criminal original petition is filed besides these two persons by another K.K.Ramesh Babu, who is the son of the first petitioner in the other Criminal Original Petitions and the respondent in the first Criminal Original petition is State rep. by The Inspector of Police, E.O.W.II, Sivagangai, the respondent in the second Criminal Original petition is State rep. by The Inspector of Police, E.O.W.II, Dindigul and the respondent in the third Criminal Original petition is State rep. by The Inspector of Police, E.O.W.II, Madurai.

2. These Criminal Original Petitions have been filed generally alleging that on the complaints lodged by one T.S.Kuppusamy respectively dated 27-05-2002, 26-05-2002 and 25-05-2002 concerned respectively in the above first, second and third Criminal Original Petition, three cases have been registered by the respondents, all under Sections 4 06 and 420 of I.P.C. against the petitioners described above as per the respondents F.I.R.s in its Crime Nos. 1 of 2002, dated 27-05-2002, Crime No. 4 of 2002, dated 26-05-2002 and Crime No. 5 of 2002 , dated 25-05-2002 and it is only praying to quash all the above cases registered and investigated into by the respondents, the petitioners have come forward to file all the above Criminal Original petitions, on grounds such as that the complainant T.S.Kuppusamy, has alleged in the first case above that he had deposited a sum of Rs. 2,50,000/- dated 5-8-1996 in the petitioners' Finance Company, namely, K.L. Krishnamurthy Finance Company, as a Fixed Deposit for a period of 3 years, promising to pay interest at 24% per annum for the deposit amount, in so far as the second case above is concerned that he had deposited a sum of Rs. 85,000/- and Rs.1,15,000/- respectively dated 23-04-1996 and 24-03-1998 in the petitioners' Finance Company, namely, K.L.Krishnamurthy Finance Company, as a Fixed Deposit for a period of 3 years, promising to pay interest at 24% per annum for deposit amount and in so far as the third case above is concerned that he had deposited a sum of Rs. 30,000/- and Rs.1,25,000/- dated 16-9-1997 and 20-11-1997 respectively in the petitioners' Finance Company, namely, K.L.Krishnamurthy Finance Company, as a Fixed Deposit for a period of 3 years, promising to pay interest at 24% per annum for the deposit amount; that the accused therein executed the promissory notes in his favour, but evaded the issuance of deposit receipts under some pretext or the other; that on the complaints lodged by the complainant, the respondents have registered the cases in the manner aforementioned under its crime numbers for the offence punishable under Sections 406 and 420 I.P.C. and have taken up the same for investigation. Hence, alleging that the complaint has not been lodged on true facts and circumstances, but on motivated, false and imaginery allegations,

thus giving the colour of criminality for the cases which are civil in nature and on such grounds, since according to the petitioners the complaints cannot be maintained before the respondents, particularly under the TNPID Act before the Special Court they have come forward to file all the above three petitions praying for quashing the F.I.Rs in the respective Criminal Original petitions above.

3. During arguments the learned counsel appearing on behalf of the petitioners besides analysing the facts and circumstances of the case as projected in the Original Petitions above would also cite two judgments, the first one delivered in T.T.ANTONY VS. STATE OF KERALA ((2 001) 6 SUPREME COURT CASES 181), wherein, it is held that "... There can be no second F.I.R. and no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or same occurrence giving rise to one or more cognizable offences. Only information about commission of a cognizable offence which is first entered in station house diary by officer in charge of the police station can be regarded as F.I.R. under Section 154. All such subsequent informations will be covered by Section 162".

4. In the second judgment cited on behalf of the petitioners delivered in M/s. KUNSTOCOM ELECTRONICS (I) PVT. LTD., VS. GILT PACK LIMITED (AIR 2002 SUPREME COURT 739) it is held that "the High Court disposing of the petition with observation that accused shall have right to raise all grounds at the time of framing of the charge is held not proper on ground that since raising the very same objections at the time of framing the charge would practically be an empty formality as the trial Court had already taken a definite view in the matter".

5. On the part of the learned Government Advocate on the Criminal Side, he would submit that a definite case of breach of trust and cheating has been made out on the face of the F.I.R.s by the complainant in all the three cases registered by the respondents relating to the above three criminal Original Petitions and the matters are under investigation and therefore, no interference by this Court need be necessary and since the amounts put in fixed deposit have matured for payment, the accused on such maturity should have paid the amounts as promised, which they failed to do, as a result of which, the complainant has rightly preferred the complaints before the respondents and they are duty bound to entertain the complaints and investigate into and file the charge sheet, in which event, no other question muchless that they are the cases civil in nature would arise and on such arguments, the learned Government Advocate would pray for dismissing of the Criminal Original Petitions.

6. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel appearing on behalf of the petitioners' and the learned Government Advocate on the Criminal Side contra what comes to be known is that in the petitioners' Finance Company, the complainant before the respondents, namely T.S.Kuppusamy has deposited amounts as afore extracted in three fixed deposits for three years and on attaining the maturity, after three years the petitioners have failed to repay the amounts, with interest at 24% per annum as promised at the time of investment and hence, he has come forward to lodge criminal complaints against the petitioners before the respondents for penal action and on intimation of the complaints, the respondents have registered cases in their

crime numbers against the petitioners for the commission of offence punishable under Sections 406 and 420 I.P.C. and it is against registering of these cases as per their crime Nos. 1, 4 and 5 of 2002, the petitioners have come forward to file the above Criminal Original Petitions praying to quash the same.

7. There seems to be nothing wrong on the part of the complainant in the criminal case registered by the respondents to have resorted to lodge the complaints on the failure of the petitioners to repay the sums deposited with them in their Finance Company, which are all admitted facts. But the only plea that is taken on the part of the petitioners is that the subject matters are civil in nature and they cannot lie before the respondents for investigation.

8. The learned counsel appearing on behalf of the petitioners would also cite the above two judgments, the prepositions of which held therein are general in nature and they cannot directly become applicable to the facts and circumstances of the case in hand. There does not seem to be any ambiguity or irregularity in the registration of the case filed by the respondents, particularly for commission of offence by the petitioners under Sections 406 and 420 I.P.C. and hence, this Court does not find any valid or tangible reason to cause interference into the registration of the cases or the investigation taken up on the part of the respondents and in these circumstances the only course open for this Court is to refrain from causing any interference into the case registered and investigated into in the manner stated above and hence, the following judgment.

In result,

i.the above Criminal Original Petitions are without merit and the same are dismissed;

ii.consequently, Crl.M.P.Nos. 171, 174 and 177 of 2003 are also dismissed.

Index: Yes
Internet: Yes
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To
1. State rep. by
The Inspector of Police
E.O.W. II
Sivagangai.

2. State rep. by
The Inspector of Police
E.O.W. II
Dindigul.

3. State rep. by
The Inspector of Police
E.O.W. II

Madurai.

4. The Public Prosecutor High Court
Madras.

((SCO LYRIX 6.1
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